



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: HOra14090733
HUD No.: 05-14-1610-8

JAMAL L. SMITH, in his official capacity as
EXECUTIVE DIRECTOR of the
INDIANA CIVIL RIGHTS COMMISSION,
Complainant,

v.

GARDEN CITY TRAILOR PARK/ JIM BOHUNSKY,
Respondent.

NOTICE OF FINDING and
ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice occurred in this instance. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On September 17, 2014, [REDACTED] filed a Complaint with the Commission against Garden City Park/Jim Bohunsky owner ("Respondent") alleging discrimination on the basis of race by association in violation of the Indiana Fair Housing Act (Ind. Code § 22-9.5, *et seq.*), the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Executive Director now finds the following:

The first issue before the Commission is whether Respondent refused to rent a lot to Complainant because of his association with an individual of another race. In order to prevail on such a claim, Complainant must show that: 1) he is associated with an individual of another race; 2) he was qualified to rent in accordance with Respondent's reasonable terms and conditions; 3) he made a bona fide offer to rent a site from Respondent; 4) Respondent refused Complainant's offer to rent; and 5) evidence exists to raise a presumption of unlawful discrimination based on this association. There is sufficient evidence to believe that



Respondent refused to rent to Complainant because he had a bi-racial girlfriend.

By way of background, Complainant is dating [REDACTED], a bi-racial (African-American and Caucasian) female. On or about August 20, 2014, [REDACTED] called Respondent to inquire about renting a mobile home. Evidence shows that Respondent rents his trailers for \$500.00 a month including utilities. Although [REDACTED] is employed, evidence shows that Respondent told Complainant that she needed “two people to pay rent” or “a man” to help and was not interested in renting to her. Later, on or about August 28, 2014, Complainant, [REDACTED], their daughter, Complainant’s sister, and the sister’s boyfriend visited Respondent’s property to inquire about renting a mobile home for Complainant, [REDACTED] and their two children; however, during the course of the visit, Respondent pointed to [REDACTED] and asked “what is that?” Respondent then inquired about [REDACTED] race. Evidence shows that upon learning that Complainant was bi-racial (African-American and Caucasian,) Respondent said that “we do not accept that race here” and refused to rent to Complainant.

Despite Respondent’s assertions, there is insufficient evidence to support his claims. Rather, evidence shows that Respondent denied Complainant’s offer to rent once he noticed that Complainant’s girlfriend was African-American and Caucasian. While Respondent alleges that he does not recall speaking to [REDACTED] and opined that he denied Complainant the opportunity to rent because [REDACTED] lacked sufficient income, evidence shows that [REDACTED] had the required first month’s rent and deposit necessary to rent from Respondent. Moreover, Respondent admits that he does not have paper applications and that he has a verbal policy requiring his renters to have a job or “some form of income” before permitting them to rent. As evidence suggests that Complainant’s bona fide offer to rent was denied because of his association with his bi-racial girlfriend, reasonable cause exists to believe that a discriminatory practice occurred as alleged.

The second issue before the Commission is whether Respondent subjected Complainant to discriminatory statements. As mentioned above, Complainant, [REDACTED], their daughter, Complainant’s sister, and the sister’s boyfriend were present at the time Respondent pointed at [REDACTED], asked “what was that,” and stated that he did not “accept that race here.” Moreover, witness testimony asserts Respondent stated a similarly discriminatory statement of “we do not allow that in here” when referring to [REDACTED]. Simply stated, evidence shows that Respondent made a discriminatory statement demonstrating his preference for persons of a particular race. As such and based upon the aforementioned, reasonable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Fair Housing Act, the Indiana Civil Rights Law, and/or Title VIII of the Civil Rights Act of 1968, as amended, occurred in the aforementioned case. As permitted by 910 IAC 2-6-6(h), Respondent, Complainant, or an aggrieved person on whose behalf the Complaint is filed may elect to have the claims asserted in a civil action under Ind. Code § 22-9.5-6-12 in lieu of an administrative proceeding under 910 IAC 2-7. In the event the parties seek to pursue such an election, it must be made not later than twenty

(20) days after the receipt of service of this Notice of Finding and Charge. The notice of any such election must be filed with the Commission and served on the Director, the Respondents, and Complainant in accordance with 910 IAC 2-6-6. If such an election is not timely made, the administrative proceedings initiated by the Charge will continue as scheduled. 910 IAC 2-6-6. Moreover, the Respondent shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. [REDACTED] and any other person aggrieved by this alleged discriminatory practice may participate as a party in the hearing by filing a request for intervention. All discovery in this matter must be completed fifteen (15) days prior to the date of hearing. If at any time following service of this charge Respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondent must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3).

January 12, 2015

Date

Jamal L. Smith
Executive Director
Indiana Civil Rights Commission